

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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DESCARTES SYSTEMS (USA) LLC,

Plaintiff,

-against-

ORDER

09-cv-4080 (ADS)(GRB)

CONSUMER PRODUCTS SERVICES, INC.,
a/k/a CONSUMER PRODUCTS SERVICES,
LLC

Defendant.

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APPEARANCES:

Trokie Landau LLP

Attorneys for the plaintiff

225 Broadway

Suite 613

New York, NY 10007

By: James Kenneth Landau, Esq., of Counsel

NO APPEARANCE:

Consumer Products Services, Inc.

also known as

Consumer Products Services, LLC

SPATT, District Judge.

The Plaintiff commenced this action on or about September 22, 2009, asserting claims against the Defendant for breach of contract, or in the alternative, for unjust enrichment. On September 20, 2011, the Clerk of the Court noted the default of the Defendant, and on October 21, 2011, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs. Thereafter, the case was transferred to United States Magistrate Judge Gary R. Brown.

On August 31, 2012, Judge Brown issued a thorough Report recommending that the Court enter default judgment against the Defendant. He found that under New York law, the Defendant was liable for breach of contract. With regard to damages, Judge Brown recommended that the sum of \$35,711.24 in damages be awarded to the Plaintiff, plus pre-judgment interest at the rate of 9% running from October 13, 2011 to the date of the judgment; \$6,870.00 in attorney's fees; and \$625.16 in costs.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Brown's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Brown's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Brown's Report and Recommendation is adopted in its entirety, and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the Defendant in the amounts recommended by Judge Brown, namely (1) \$35,711.24 in damages; (2) pre-judgment interest at the rate of 9% on said sum running from October 13, 2011 to the date of the judgment; (3) \$6,870.00 in attorney's fees; and (4) \$625.16 in costs; and it is further

ORDERED that the Clerk of the Court is respectfully directed to mark this case as closed.

SO ORDERED.

Dated: Central Islip, New York
September 24, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge